

DIGEST
—OF—
ROWN LANDS CASES.

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ALPHABETICAL DIGEST

OF

CASES RELATING TO CROWN LANDS

AND COGNATE MATTERS.

BY

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LAW CLERK TO THE DEPARTMENT OF CROWN LANDS FOR ONTARIO.

TORONTO:

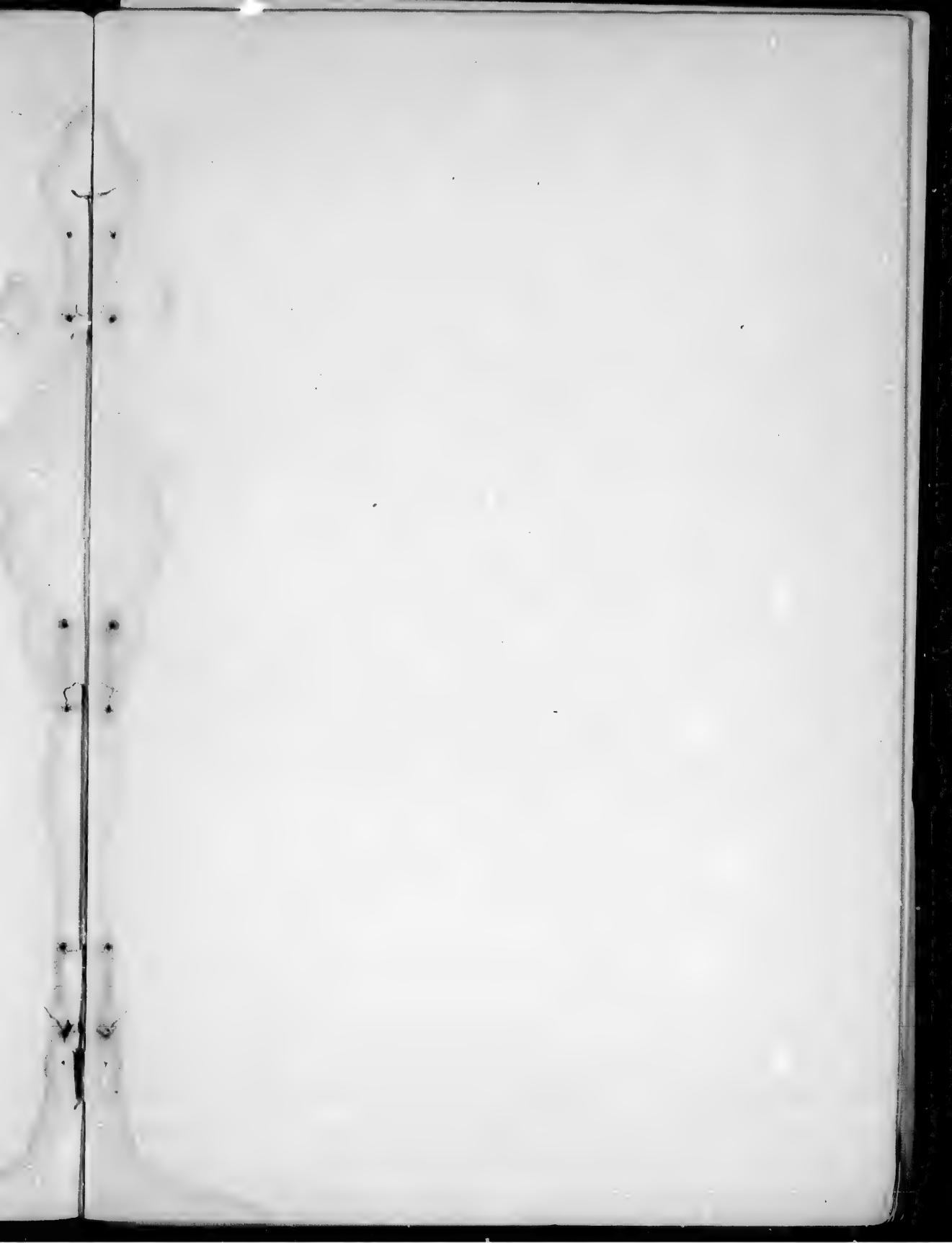
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1891.





The following Digest was not made with any view to publication, but on the completion of the manuscript it appeared to the Commissioner of Crown Lands that if printed it might be of some service to persons having dealings with the Department, and perhaps to the legal profession generally. It is therefore submitted, not as noting absolutely every case in which a point relating in some way to the Crown Lands Department has been decided, but as a tolerably fair, and, it is hoped, correct summary of the resultant of all the cases decided in our Courts bearing upon the administration of the Crown Lands. A few matters noted in the course of reading have been introduced, though not directly connected with the general subject of the Digest.

DEPARTMENT OF CROWN LANDS,
TORONTO, May, 1891.



ALPHABETICAL DIGEST

OF

CASES RELATING TO CROWN LANDS

AND COGNATE MATTERS.

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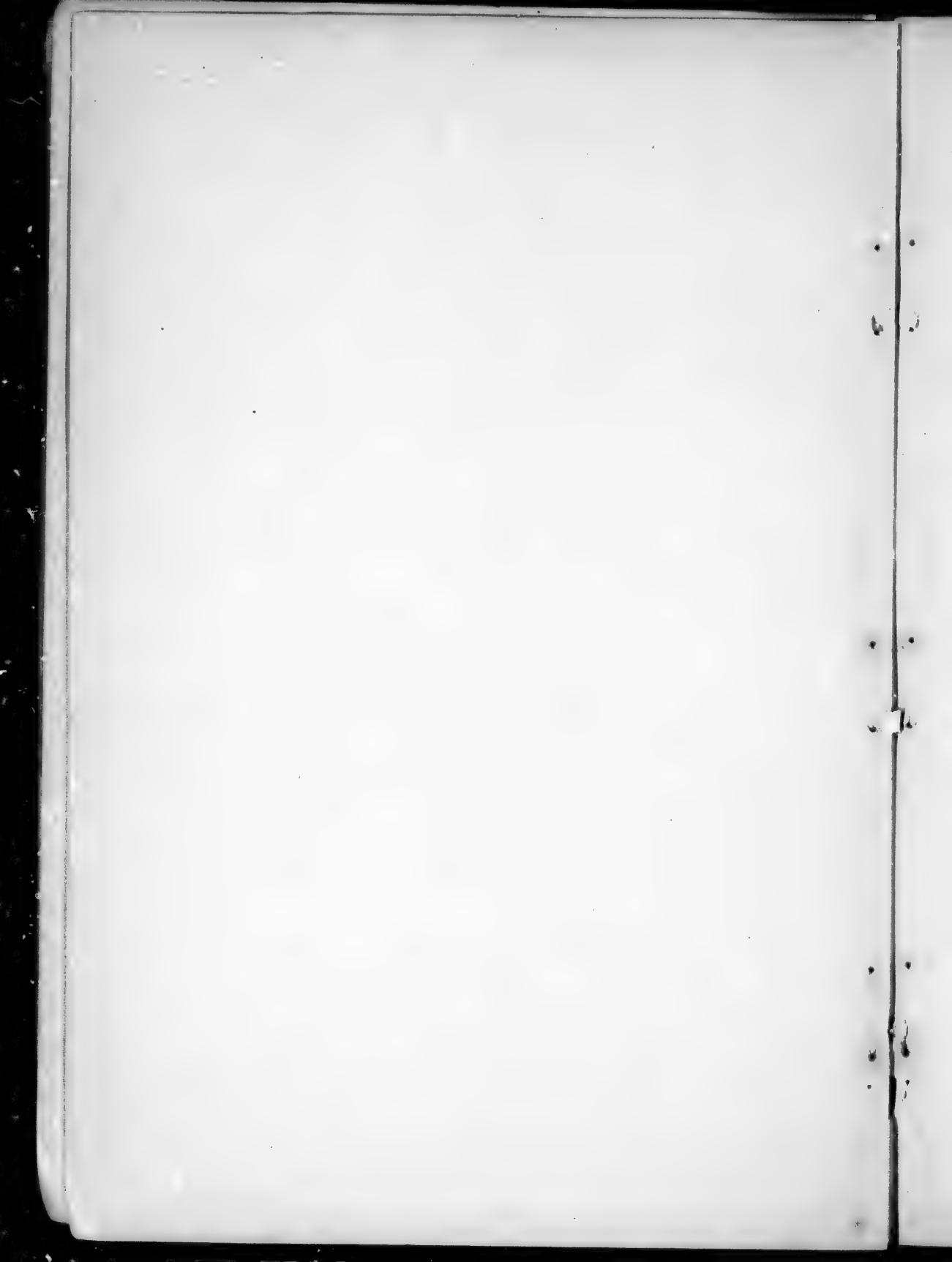
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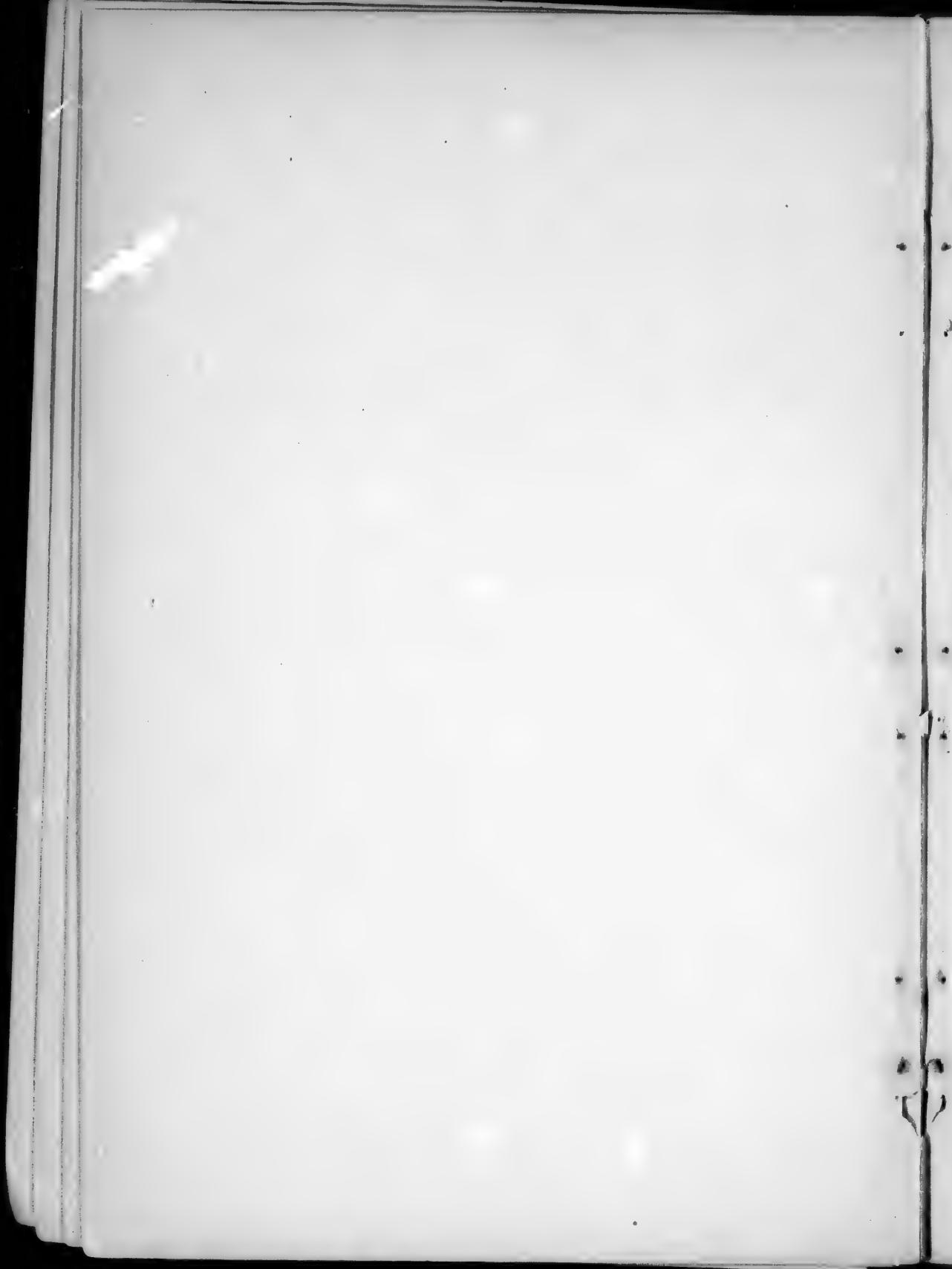
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High water mark, the limit of the highest ordinary state of the river. *Plumb v. McGannon*, 32 Q.B. 8. *Grahame v. Brown*, 12 C.P. 418. *Parker v. Elliott*, 1.C.P. 470.

See **BEACH**; **BANK**.

Highway. See **BOUNDARY**; **ROAD**; **STREET**; **SURVEYOR**; **USER**.

Homestead. See **FREE GRANT SETTLER**.

Husband. See **COURTESY**; **MARRIED WOMAN**.

Indian agent not a crown land agent. *Young v. Scobie*, 10 Q.B. 372.

Indian Lands Acts. 13 & 14 Vict., chs. 42 and 74.; 14 & 15 Vict., chs. 59 and 106; Con. Stat. Can., ch. 9; 23 Vict., ch. 151; Rev. Stat. Can., ch. 43.

action for seizing and selling timber cut on, to be brought within six months of the seizure. *Jones v. Bain*, 12 Q.B. 550.

not purchasable from Indians without prior consent of government. *Reg. v. Baby*, 12 Q.B. 346. *Reg. v. Hagar*, 7 C.P. 380.

unless where title is not in the Crown but in the individual Indian. *Totten v. Watson*, 15 Q.B. 392.

roads through, have same character as in other parts of their course. *Byrnes v. Bown*, 8 Q.B. 181.

timber Act applied to. *Atty. Gen. v. Fowlds*, 18 Chy. 433.

timber cut on, by Indians or whites with their consent not to be seized or sold. *Vanvleck v. Stewart*, 19 Q.B. 489.

when sold, liable to assessment. *Church v. Fenton*, 28 C.P. 384; 4 A.R. 159; 5 S.C.R. 239. *Reg. v. Guthrie*, 41 Q.B. 148. *Reg. v. M'Donnell*, 41 Q.B. 157. *Totten v. Truax*, 16 O.R. 490.

See EVIDENCE.

Indian right, bill to rescind contract to purchase, dismissed, whole estate being in the Crown. *Bown v. West*, 1 O.S. 287.

Indians, grant by, to individual, invalid as against the Crown. *Rex v. Phelps*, Tay. 47.

lands not reserved for, are public lands. *Reg. v. St. Catharines*, 10 O.R. 196; 13 A.R. 148.

Injunction to restrain further cutting of timber, refused on indefinite evidence of cutting two years before. *Hughson v. Cook*, 20 Chy. 238.

Inlet from 5 to 13 feet deep, navigable water. *Gage v. Bates*, 7 C.P. 116.

Interest before patent must be shewn to enable party to impeach patent. *Mutchmore v. Davis*, 14 Chy. 346.

of locatee or purchaser available for benefit of creditors. *Yale v. Tollerton*, 13 Chy. 302; *Ferguson v. Ferguson*, 16 Chy. 309. See R.S.O. 1887, ch. 64, sec. 25.

Intrusion, in information for, by Attorney General of Canada, title in Dominion not necessarily claimed. *Atty. Gen. v. Harris*, 33 Q.B. 94

defendant must show title and traverse that of the Crown. *Reg. v. Gould*, H.T. 3 Vict.

"not guilty" does not put in issue title of Crown, but only fact of intrusion. *Reg. v. Munro*, H.T. 6 Vict.; *Atty.-Gen. v. Stanley*, 9 Q.B. 84; *Reg. v. Sinnott*, 27 Q.B. 539.

practice in. *Atty. Gen. v. McLachlin*, 5 P.R. 63.

venue may be laid anywhere. *Atty. Gen. v. Dockstader*, 5 O.S. 341.

Judgment, action on, may be brought within 20 years. *Caspar v. Keachie*, 41 Q.B. 599; *Boice v. O'Loane*, 28 C.P. 506; 3 A.R. 167.

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Jurisdiction, Court has, to relieve against fraudulent assignment. *Bull v. Frank*, 12 Chy. 80.

to relieve against fraud in contract affecting lands of which title is in Crown. *Bown v. West*, 1 E. & A. 117.

to rescind a patent voidable or even void. *Martin v. Kennedy*, 2 Chy. 80.

to sit aside a patent issued on the finding of the Heir and Devisee Commission. *McDiarmid v. McDiarmid*, 9 Chy. 144.

not, to partition a squatter's right. *Jenkins v. Martin*, 20 Chy. 613.

not, to set aside a grant made with knowledge of all the facts and in the absence of fraud or mistake, or to declare grantee a trustee for another. *Simpson v. Grant*, 5 Chy. 267; *Boulton v. Jeffrey*, 1 E. & A. 111; *Barnes v. Boomer*, 10 Chy. 532; *Kennedy v. Lawlor*, 14 Chy. 224.

See **PATENT**; **ROAD**.

Justice of the Peace empowered to take affidavits only where he can act as Justice.

Reg. v Atkinson, 17 C.P. 295.

Knowledge in patentee of adverse possession necessary to bar claim. *Johnson v. McKenna*, 10 Q.B. 520; *Re Linet*, 3 Chy. Cham. 230; *Turley v. Williamson*, 15 C.P. 538. See *Stewart v. Murphy*, 16 Q.B. 224; *Mulholland v. Conklin*, 22 C.P. 381; *Hill v. McKinnon*, 16 Q.B. 216; *Armstrong v. Stewart*, 25 C.P. 198; *Young v. Elliott*, 23 Q.B. 420.

See **JURISDICTION**; **PATENT**; **PURCHASER**.

Land. See **CLAIMS**; **CORPORATION**; **DESCRIPTION**; **GOVERNOR**; **INDIAN**; **MISJOINDER**; **RESERVATION**; **TIMBER**; **WATER**.

Lease of Crown reserve having expired, writ of restitution refused after conviction of forcible entry and detainer. *Rex v. Jackson*, Dra. 50.

sufficient to maintain trespass without proof of entry. *St. Leger v. Manahan*, 5 O.S. 89.

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License expired, holder may sue for trees cut during its currency. *White v. Dunlop*, 27 Q.B. 237; *McLaren v. Ryan*, 36 Q.B. 307.

not revoked by issuing patent. *McMullen v. Macdonnell*, 27 Q.B. 36. See *Anderson v. Muskoka*, 27 C.P. 180; *Hall v. Canada Land & Col. Co.*, 8 S.C.R. 631.

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Crown timber agent as such has no power to grant. *Farquharson v. Knight*, 25 Q.B. 413.

evidence of Crown timber agent sufficient to prove. *Boyd v. Link*, 29 Q.B. 365. of occupation, demand of possession necessary in ejectment against, by grantee of Crown. *Crean v. Friesman*, 5 O.S. 661.

of occupation necessary to maintain ejectment. *Walker v. Rogers*, 12 C.P. 327.

of occupation should be issued to every purchaser, lessee, or settler. *Street v. Kent*, 11 C.P. 255.

See **DEPOSIT**; **HAY**; **PINE**; **RAILWAY**; **REPLEVIN**; **ROAD ALLOWANCE**; **SQUATTER**; **TIMBER**.

Limitation, Statute of, against patentee. *Harris v. Prentiss*, 30 C.P. 484; *Beigle v. Dake*, 42 Q.B. 250.

does not run against Crown, or while fee is in Crown. *Reg v. McCormick*, 18 Q.B. 131; *Jamieson v. Harker*, 18 Q.B. 590; *Dousett v. Cox*, 18 Q.B. 594; *Reg. v. Williams*, 39 Q.B. 397; *Atty.-Gen. v. Midland*, 3 O.R. 511; *Ratté v. Booth*, 10 O.R. 351; *Day v. Day*, 17 A.R. 157; *McLure v. Black*, 20 O.R. 70.

See DOWER; EASEMENT; JUDGMENT; ROAD; TAX DEED; USER.

Locatee may maintain case for injury by flooding before patent. *Miller v. Purdy*, H.T. 6 Vict.

Locatee's interest available for creditors. *Yale v. Tollerion*, 13 Chy. 302; *Ferguson v. Ferguson*, 16 Chy. 309. See R.S.O. 1887, ch. 64, sec. 25. under Act of 1868 has no power to sell or dispose of pine timber. *Hughson v. Cook*, 20 Chy. 238.

See FREE GRANT.

Magnetic, astronomical boundaries prevail over. *Thibaudeau v. Skead*, 39 Q.B. 387. **Married Woman**, conveyance by, good without husband joining. *Boustead v. Whitmore*, 22 Chy. 222; *Contra, Ogden v. McArthur*, 36 Q.B. 246.

conveyance by, to husband, held good. *Sandars v. Malsburg*, 1 O.R. 178. power to devise. *Munro v. Smart*, 26 Ony. 310. void conveyance by, not cured by Statute when possession contrary to deed. *Elliott v. Brown*, 11 A.R. 228.

Metes and Bounds in description from Crown Lands Department admissible to explain patent of lot by number and concession. *Hagarty v. Britton*, 30 Q.B. 321. in grant of land in one concession overrunning into another concession restricted to land in the concession named. *Wigle v. Stewart*, 28 Q.B. 427. overlapping a town in description of land granted in a township passes no land in the town. *Campbell v. Crooks*, 9 Q.B. 639.

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Minor, deed by, voidable, not void. *Foley v. Canada Permanent*, 4 O.R. 38. **Misjoinder**, for several persons claiming separate parcels to file a bill to set aside a patent for all the lands. *Westbrooke v. Atty.-Gen.*, 11 Chy. 264.

Misrepresentation by Crown Lands Agent makes him responsible for money paid by a purchaser to a third party in consequence thereof. *McMaster v. Geddes*, 19 Q.B. 216.

Mistake, patents issued in, cancelled. *Martyn v. Kennedy*, 4 Chy. 61; *Atty.-Gen. v. Garbutt*, 5 Chy. 380; *Atty.-Gen. v. Hill*, 8 Chy. 532; *Fricht v. Scheck*, 10 Chy. 254; *Stevens v. Cook*, 10 Chy. 410; *Atty.-Gen. v. Contois*, 25 Chy. 346.

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“**More or less**,” omission of, in one part of description, cured by insertion in another. *Cartwright v. Detlor*, 19 Q.B. 210.

Mortgage, registration of, before patent, is notice whether under Heir and Devisee Commission or not. *Vance v. Cummings*, 13 Chy. 25; *Watson v. Lindsay*, 27 Chy. 253.

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Municipal Survey illegal, one-half landholders affected not having applied. *Cooper v. Wellbanks*, 14 C.P. 364.

of concession can be made only where line was not run in original survey or has been obliterated. *Fairbairn v. Sandwich*, 32 Q.B. 573; *Tanner v. Bissell*, 21 Q.B. 553; *Boley v. McLean*, 41 Q.B. 260.

petition for, need not set out necessary incidents involved. *Reg. v. McGregor*, 19 C.P. 69.

Municipality has no power to declare true boundaries of a road allowance. *McMullen v. Caradoc*, 22 C.P. 356.

has no power to stop up a road laid out by owners of land and used by public for 30 or 40 years. *Moore v. Esquerring*, 21 C.P. 277.

has no power to stop up a road by resolution, it must be by by-law. *Kronshien v. Gage*, 10 Chy. b72.

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Navigable water considered and defined. *Attorney-General v. Harrison*, 12 Chy. 466.

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fishery in private, concurrent with public use for navigation. *Beatty v. Davis*, 20 O.R. 373.

inlet from 5 to 13 feet deep. *Gage v. Bates*, 7 C.P. 116.

not where ordinarily fordable, but occasionally 4 or 5 feet deep from winds. *Ro- Portsmouth*, 17 O.P. 195.

reservation of, in patent for water lot considered. *Ratté v. Booth*, 11 O.R. 191; A.R. 419.

See FISHERY; HARBOR.

Notice, express, of unregistered assignment before patent has same effect as of unregistered deed after patent. *Goff v. Lister*, 13 Chy. 406; 14 Chy. 451.

of improper conduct of grantee in obtaining patent necessary to set aside patent as against a purchaser from him. *Proctor v. Grant*, 9 Chy. 26, 224.

recital of, in warrant, not evidence of. *Little v. Keating*, 6 O.S. 265.

registration of mortgage before patent is, whether under Heir and Devisee Commission or not. *Vance v. Cummings*, 13 Chy. 25.

Nullum Tempus Act does not apply to waste, unsurveyed lands of Crown. *Reg. v. McCormick*, 18 Q.B. 131.

Occupant under agreement with another purchasing from the Crown declared a trustee.

Dougall v. Lang, 5 Chy. 292.

under agreement with purchaser cannot maintain a bill to set aside patent to the purchaser. *Cosgrove v. Corbett*, 14 Chy. 617.

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Occupation. See LICENSE.

Onus of proof in suit by private individual to set aside patent, is on plaintiff. *McIntyre v. Attorney-General*, 14 Chy. 86.

Order in Council that no patents issue for certain lands without a special reservation, extends the reservation to the lands before patent. *Miller v. Purdy*, H.T. 6 Vict.

See CLAIMS ; GOVERNOR ; RESERVATION ; REVOKE ; SPECIFIC PERFORMANCE.

Ordnance lands, dower in. *Begley v. Gibson*, 19 Q.B. 458.

granted lands marked by the, as necessary for the Rideau Canal, revested in the Crown. *Malloch v. Ordnance*, 3 Q.B. 387.

lands in 2nd schedule of 19 Vict., ch. 45, sold before that Act, purchase money of, belongs to Provincial Government. *Secretary of State v. G. W. R.*, 13 Chy. 503. title to, discussed. *Grand Trunk v. Credit Valley*, 27 Chy. 232 ; *Kennedy v. Toronto* 12 O.R. 211.

lessee had no right to obstruct road to Niagara Falls Ferry. *Reg. v. Davis and Fralick*, 11 Q.B. 340.

Original monuments prevail over survey made disregarding them. *Artley v. Curry*, 29 Chy. 243.

Overplus. See DESCRIPTION.

Part of lot, grant of, sustained on ascertaining what was meant by reference to plan and prior grant. *Hyatt v. Mills*, 20 O.R. 351.

Partition, Court will not, a squatter's right. *Jenkins v. Martin*, 20 Chy. 613.

Court will not, lands of which title is in Crown. *Abell v. Weir*, 24 Chy. 464.

Party without title cutting hay has no right of action against another party without title taking possession. *Graham v. Heenan*, 20 C.P. 340.

Patent, abstract shewing, not evidence without exemplification. *Reed v. Ranks*, 10 C.P. 202.

acreage mentioned in, not corresponding with quantity of land in description, description will control. *Manning v. Ferguson*, H.T. 2 Vict.

ambiguity in, cured by reference to old map and subsequent survey. *Horne v. Munro*, 7 C.P. 433.

ambiguity in, other grants admissible to assist in construction. *Clark v. Bonnycastle*, 3 O.S. 528.

as glebe of land previously leased or occupied and fee paid, set aside. *Martyn v. Kennedy*, 4 Chy. 61 ; *Attorney-General v. Hill*, 8 Chy. 532.

carries possession with it, there being no adverse claim. *Macklem v. Turnbull*, 5

Q.B. 129 ; *Weaver v. Burgess*, 22 C.P. 104 ; *Casselman v. Jersey*, 32 Q.B. 333.

certified copy of, not primary evidence of. *Prince v. McLean*, 17 Q.B. 463.

construed in same manner as deed between subject and subject. *Clark v. Bonnycastle*, 3 O.S. 528.

in tail to appointee in fee of devisee for life with power of appointment in tail, held good. *Scane v. Hartrick*, 7 Chy. 161.

ssued with knowledge of all the facts and in the absence of fraud or mistake will not be set aside by the Court. *Simpson v. Grant*, 5 Chy. 267 ; *Boulton v. Jeffrey*, 1 E.&A. 111 ; *Barnes v. Boomer*, 10 Chy. 532 ; *Kennedy v. Lawlor*, 14 Chy. 224 ; see *Farmer v. Livingston*, 5 S.C.R. 221 : 8 S.C.R. 140 ; *Manson v. Currie*, W $\frac{1}{2}$ 10 in 1 Collingwood, 4572-61, V.C. Strong.

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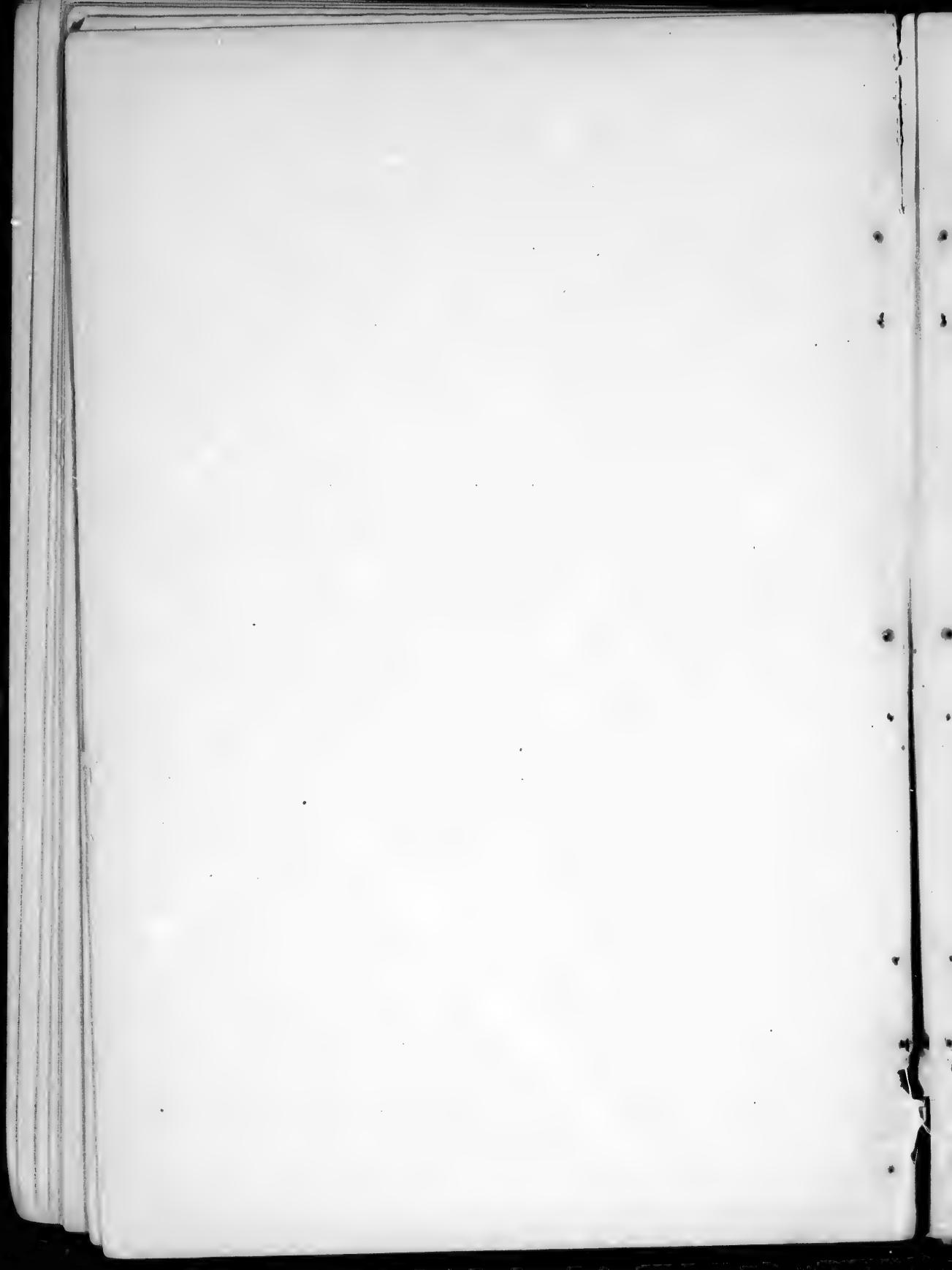
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Patent lost, par evidence of contents inadmissible. *McCollum v. Davis*, 8 Q.B. 150. mutilated or injured, exemplification should be got. *Snyder v. Barker*, 5 O.S. 333. not evidence of possession prior to its date. *Nicholson v. Page*, 27 Q.B. 318. ordered to a person issuing to another without authority shewn for change rescinded on conclusive evidence by Crown. *Attorney-General v. Garbutt*, 5 Chy. 181, 383.

parol evidence admissible to explain. *Miller v. Palmer*, 3 O.S. 425. prevails over long possession even where there is evidence of a grant by patentee before patent. *McDonald v. Prentiss*, 14 Q.B. 79; see *Eades v. Maxwell*, 17 Q.B. 173.

prevails over prior receipt for purchase. *Armstrong v. Campbell*, 4 C.P. 15. to construe, reference may be had to papers in Department. *Brady v. Sadler*, 13 O.R. 692.

under Statute of Uses, use executed. *Snyder v. Masters*, 8 Q.B. 55; *Long v. Anderson*, 30 C.P. 516.

voidable or void, Court has jurisdiction to rescind. *Martin v. Kennedy*, 2 Chy. 80. will not be set aside at instance of party who knew but did not communicate a material fact of which the patentee was ignorant. *Mahon v. McLean*, 13 Chy. 361.

See ACCEPTANCE; BILL; COPY; COSTS; DECLARATION; DEDICATION; DESCRIPTION; ENDORSEMENT; ERROR; ESTOPPEL; EVIDENCE; EXEMPLIFICATION; FALSE; FRAUDULENT; GRANT; GRANTEE; HEIR; HEIR AND DEVISEE; INTEREST; JURISDICTION; LICENSE; LOCATEE; METES AND BOUNDS; MISJOINER; MORTGAGE; NAVIGABLE; NOTICE; OCCUPANT; ONUS; PLAN; RECEIPT; REGISTRATION; RESERVATION; ROAD; SEISIN; SERVICES; SPECIFIC; SQUATTER; SURVEY; TAXES; USES.

Patentee having died before issue of patent, heir cannot maintain bill to set aside conveyance under alleged forged power of attorney from patentee. *Brouse v. Cram*, 14 Chy. 677.

See ACCESS; ATTORNEY-GENERAL; KNOWLEDGE; STATUTE OF LIMITATION.

Permit to cut specific quantities of timber is not exclusive. *Sinnot v. Scoble*, 11 S.C.R. 571.

Pine tree regulations do not empower the Department to renew licenses after three years from sale. *Shairp v. Lakefield*, 17 A.R. 322. But see 54 Vic. ch. 7, secs. 3, 4. See FREE GRANT.

Plan, copy of, certified by Surveyor-General, admissible. *Badgeley v. Bender*, 3 O.S. 221. copy of, with proved signature of assistant commissioner, admissible. *Nicholson v. Page*, 27 Q.B. 318.

of survey altered after survey and before patent, grant held according to boundaries in patent though not corresponding to work on ground. *Talbot v. Paterson*, 3 Q.B. 431; see *Stevens v. Buck*, 43 Q.B. 1.

referred to in conveyance is to be looked at together with the description. *Smith v. Millions*, 16 A.R. 140.

Plan. reserve marked as such on, cannot be granted to private parties. *Saugeen v. Church Society*, 6 Chy. 538.

sworn and examined copy of, admitted. *Whelan v. McLachlan*, 16 C.P. 102.

See DESCRIPTION ; RESERVE ; ROAD ; STREET ; SURVEY.

Possession of timber limits, evidence for the jury of some right. *Whelan v. McLachlan*, 16 C.P. 102.

without title though continued after patent does not disseise patentee. *Charles v. Cotton*, 8 Q.B. 313 ; *West v. Howard*, 5 O.S. 462.

See GRANT ; GRANTEE ; LICENSE ; PATENT ; PATENTEE ; PARTY ; PURCHASER ; REPLEVIN ; RIGHT ; ROAD ; SQUATTER ; TAX DEED ; TIMBER ; TRESPASS.

Possessory Title, trespasser cannot give himself, so as to eject one in lawful possession. *Cole v. Brunt*, 35 Q.B. 103.

to wild land may be made out otherwise than by inclosure. *Steers v. Shaw*, 1 O.R. 26.

Precious Metals, right of Province to, after conveyance to the Dominion. *Atty.-Gen. B.C. v. Atty.-Gen. Can.*, 14 App. Cas. 295 ; 25 L.J. 494.

Prescription, window lights must be in same place. *Hall v. Evans*, 42 Q.B. 190.

See DOWER ; EASEMENT ; JUDGMENT ; NULLUM ; ROAD ; STATUTE ; TAX DEED ; USER.

Priority. Tax deed over deed under patentee first registered. *Jones v. Cowden*, 34 Q.B. 345 ; 36 Q.B. 495.

Probate, proof of due execution of will. *Stewart v. Lees*, 24 Chy. 433.

Public Lands Acts. 7 W. IV. ch. 118 ; 2 Vict. ch. 14 ; 4 & 5 Vict. ch. 100 ; 12 Vict. ch. 31 ; 14 & 15 Vict. ch. 56 ; 16 Vict. ch. 159 ; Con. Stat. Can. ch. 22 ; 23 Vict. ch. 2 ; R. S. O. 1877, ch. 23 ; R. S. O. 1887, ch. 24.

Purchaser having paid an instalment, entitled to possession against occupant. *Henderson v. Westover*, 1 E. & A. 465 ; *Henderson v. Seymour*, 9 Q.B. 47.

Purchaser's interest available for creditors. *Yale v. Tollerton*, 13 Chy. 302 ; *Ferguson v. Ferguson*, 16 Chy. 309. See R. S. O. 1887, ch. 64, sec. 25.

in possession may maintain trespass or replevin. *Deedes v. Wallace*, 8 C.P. 385 ; *Glover v. Walker*, 5 C.P. 478 ; *Alexander v. Bird*, 8 C.P. 539 ; *Henderson v. McLean*, 8 C.P. 42 ; 16 Q.B. 630 ; *Whiting v. Kernahan*, 12 C.P. 57 ; *Nicholson v. Page*, 27 Q.B. 505.

of Crown lands selling his right in ignorance of sale being cancelled, no evidence of fraud. *Walker v. Douglas*, 23 Q.B. 9.

See DOWER ; FRAUD ; FREE GRANT ; LICENSE ; NOTICE ; OCCUPANT ; RECEIPT ; VENDOR ; WIDOW.

Quantity. See DESCRIPTION ; PATENT ; PERMIT.

Quarter of a lot extends one-half the depth and one-half the width of the whole lot, and not affected by subsequent grant of another quarter described as half of half. *Davis v. McPherson*, 33 Q.B. 376.

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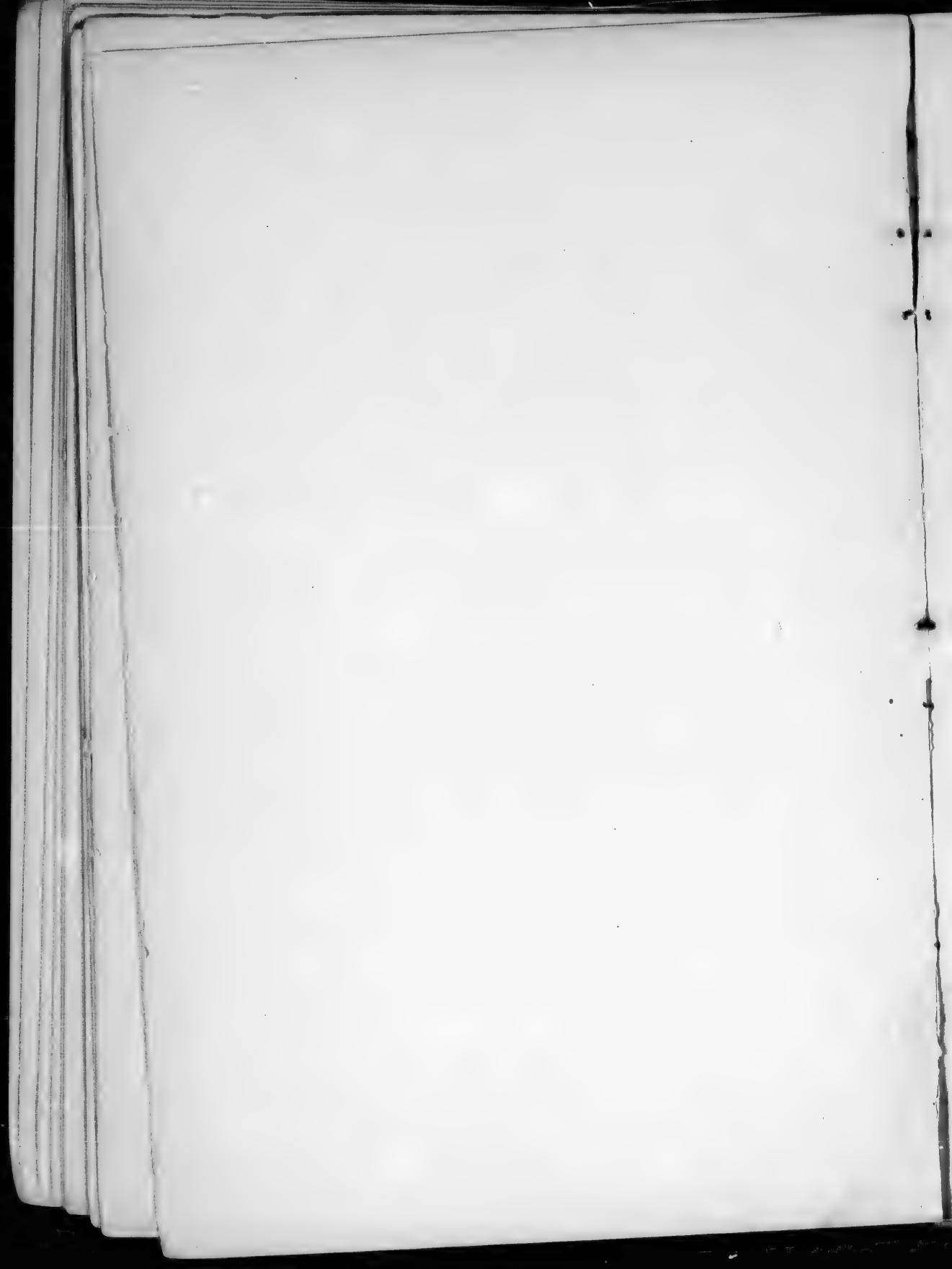
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Railway Company, deed to, by mother, bars children's interests. *Dunlop v. C.C.R. Co.*, 45 Q.B. 74.

statutory right given to, to cut timber on each side of line, prevails over license.

Booth v. McIntyre, 31 C.P. 183; *Foran v. McIntyre*, 45 Q.B. 288. See *McArthur v. Northern and Pacific*, 15 O.R. 783; 17 A.R. 86.

Receipt for purchase money not good against subsequent patent. *Armstrong v. Campbell*, 4 C.P. 15.

See **DEPOSIT**; **SALE**.

Recital of notice in warrant, not evidence of notice. *Little v. Keating*, 6. O.S. 265.

Record. See **ASSIGNMENT**; **DESCRIPTION**; **GRANT**; **SQUATTER**.

Registration before patent applies only to mortgages, liens, or incumbrances. *Holland v. Moore*, 12 Chy. 296.

of mortgage before patent is notice whether under Heir and Devisee Commission or not. *Vance v. Cummings*, 13 Chy. 25.

See **SPECIFIC**.

Regulations. See **PINE**.

Relator's costs allowed in action by one trespasser against another. *Atty.-Gen. v. Price*. 18 Chy. 7.

Religious Purpose. See **APPROPRIATION**; **GOVERNOR**.

Replevin maintainable by party in possession entitled to renewal of license against a wrongdoer before license actually renewed. *Gilmour v. Buck*, 24 C.P. 187.

See *McArthur v. Northern and Pacific*, 15 O. R. 733; 17 A.R. 86.

maintainable by purchaser. *Deedes v. Wallace*, 8 C.P. 385.

See **PURCHASER**.

Reservation in patent by Order in Council extends to the lands before patent. *Miller v. Purdy*, H.T. 6 Vict.

in patent of right to resume part of land granted, good. *Cooper v. Stewart*, 14 App. Cas. 286; 25 L.J. 493.

in patent of right to resume part of land granted, transfer not necessary. *Natal v. Behrens*, 14 App. Cas. 341; 25 L.J. 495.

of trees notwithstanding, grantee or party claiming under him may maintain trover. *Casselman v. Hersey*, 32 Q.B. 333.

of waters of a river means as raised by a dam existing at time of patent at their natural height at any time during the ordinary changes of the seasons. *Brady v. Sadler*, 13 O.R. 692; 16 O.R. 49; 17 A.R. 365.

See **NAVIGABLE**; **ORDER**; **TROVER**.

Reserve marked as such on plan cannot be granted to private parties. *Saugeen v. Church Society*, 6 Chy. 538.

See **DEDICATION**; R.S.O. 1887, ch. 184, sec. 503, sub-sec. 2.

Restitution, writ of, refused after conviction of forcible entry and detainer, lease of Crown reserve having expired. *Rex v. Jackson*, Dra. 50.

Revoke appropriation for religious purpose, Governor in Council has power to. *Simpson v. Grant*, 5 Chy. 267.

Right of action, party without title cutting hay has no, against another party without title taking possession. *Graham v. Heenan*, 20 C.P. 340.

of way or road allowance excepted, does not except the land. *Wright v. Jackson*, 10 O.R. 470.

See SQUATTER.

Riparian Proprietor, Crown has no power to interfere with rights of. *Atty.-Gen. v. McLaughlin*, 1 Chy. 34.

grantee in patent reserving the waters of a river has not the rights of a. *Kirchoffer v. Stanbury*, 25 Chy. 413.

rights of, considered. *McArthur v. Gillies*, 29 Chy. 223; *Hawkins v. Mahaffy*, 29 Chy. 326; *Dickson v. Carnegie*, 1 O.R. 110; *Muskoka v. Queen*, 28 Chy. 563; *Reg. v. Robertson*, 6 S.C.R. 52.

River, what is a, a question of fact for jury. *McHardy v. Ellice*, 37 Q.B. 580; 1 A.R. 628.

See BOUNDARY; DESCRIPTION; CREEK; FLOAT; GRANT; HIGHWATER; NAVIGABLE; RESERVATION; TIDE; WATER.

Road allowance, conviction for overflowing by water from mill-dam sustained through only partially used as road. *Reg. v. Lees*, 29 Q.B. 221.

district councils had no power to pass by-laws enabling township councils to sell. *Cochran v. Hislop*, 3 C.P. 440.

in patent different from those in survey, patent will prevail. *Field v. Kemp*, 3 O.S. 374.

in possession of private individual can only be opened by municipality. *Curry v. McLeod*, 12 Q.B. 545.

laid out on original plan, subsequently granted by Crown and occupied for thirty years and never used as a highway, indictment for stopping up not sustainable. *Rex v. Allan*, 2 O.S. 90.

marked on original plan retains character though not used for forty years. *Badgeley v. Bender*, 3 O.S. 221.

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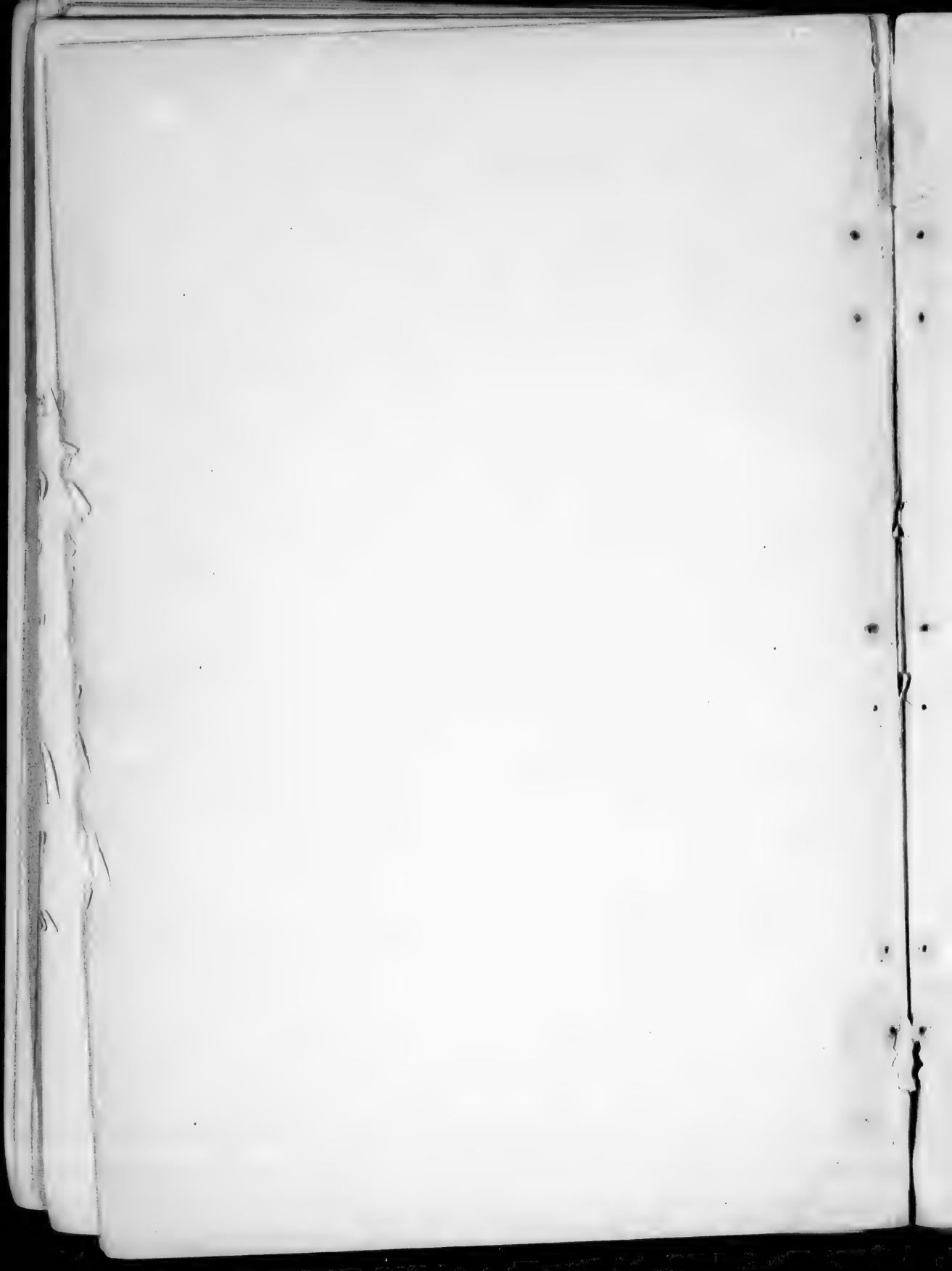
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Specific performance of Order in Council, Court cannot enforce. *Simpson v. Grant*, 5 Chy. 267.

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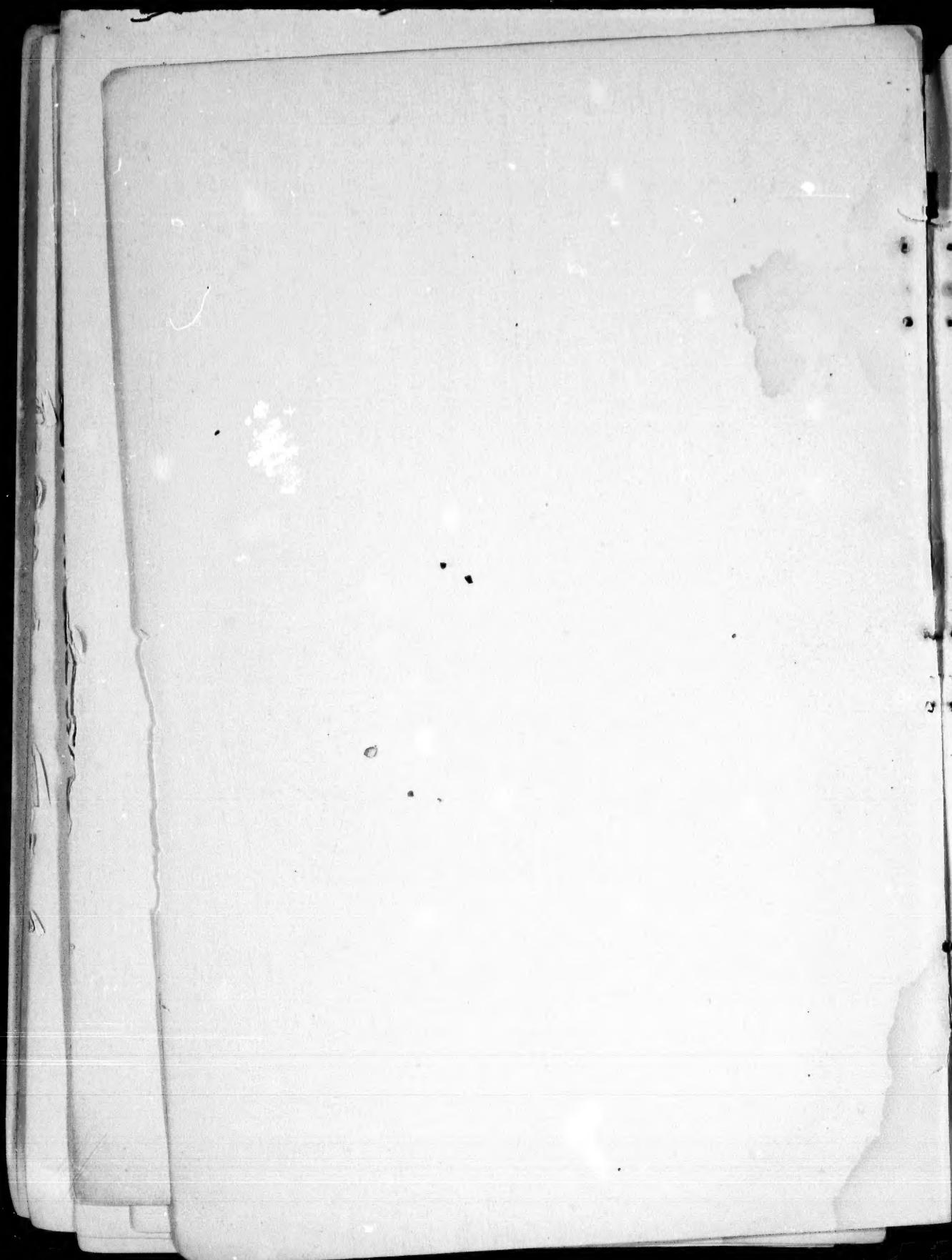
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